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Technologies Inc. and Radomir Nikolajev

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7
8 UNITED STATES DISTRICT COURT
9
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12) Case No.: 3:16-mc-80150-JSC
13 IN RE: PETITION FOR JUDICIAL)
14 ASSISTANCE FOR THE ISSUANCE OF)
15 SUBPOENAS PURSUANT TO 28 U.S.C. §)
16 1782 TO OBTAIN DISCOVERY FOR USE)
17 IN A FOREIGN PROCEEDING)
18)
19)
20)
21)

) DECLARATION OF RADOMIR
NIKOLAJEV IN SUPPORT OF MOTION
TO COMPEL BY DIGITAL SHAPE
TECHNOLOGIES INC. AND RADOMIR
NIKOLAJEV

)
16 DIGITAL SHAPE TECHNOLOGIES, INC.,)
and RADOMIR NIKOLAJEV,)
17)
18 Petitioners.)
19)
20)
21)

1 **DECLARATION OF RADOMIR NIKOLAJEV**

2 I, RADOMIR NIKOLAJEV, hereby declare as follows:

3 1. This declaration is made of my own personal knowledge, except where otherwise
4 indicated, and if called upon to testify as a witness, I could and would competently testify thereto. I
5 submit this declaration in support of Petitioners' motion to compel discovery from Glassdoor Inc.

6 2. I am one of the founders of Digital Shape Technologies Inc. ("DST") and have acted
7 as President for DST for over 16 years. DST is a Canadian company that develops sophisticated
8 financial analysis software for the alternative investment sector of the financial services industry.
9 DST's principal place of business is in Montreal.

10 3. Kelly Mikulec is a former employee of DST, who worked in DST's Montreal offices.

11 4. DST and I (collectively, "Petitioners") are also the plaintiffs in *Digital Shape*
12 *Technologies Inc. and Radomir Nikolajev v. Kelly Mikulec*, Case No. 500-17-080160-131, before the
13 Quebec Superior Court, District of Montreal (the "Canadian Lawsuit").

14 5. In the Canadian Lawsuit, Petitioners allege that on March 7, 2013, Ms. Mikulec
15 posted a review on Glassdoor about DST and myself. A true and correct copy of that review is
16 attached hereto as Exhibit A.

17 6. The review contains a number of false and defamatory statements. In the Canadian
18 Lawsuit, DST and I will demonstrate that all of these assertions are false, have injured our
19 reputations, and have injured us. Here, I focus only on those statements that I personally can readily
20 and easily address in the context of a declaration.

21 7. While at DST, Ms. Mikulec worked as Communications Officer and reviewed
22 questionnaires that were submitted during request for proposals ("RFP"s).

23 8. Before investing hundreds of thousands of dollars in DST's software, financial
24 services companies conduct due diligence of DST during the RFP process. During the initial part of
25 the RFP, this due diligence is generally in the form of a questionnaire.

26 9. As President of DST, I have personally reviewed numerous RFPs sent to DST over
27 the years. The RFP questionnaires generally include sections regarding the following areas: i)
28 background and reputation of the service provider and its principals; ii) the service provider's

1 business model, policies and turnover rate, in order to assess the viability of the provider to perform
2 services; iii) pending litigation or complaints; and iv) service provider's culture, values and business
3 styles.

4 10. Ms. Mikulec's review on Glassdoor mirrors the general categories included in the
5 RFP process. She attacks the reputation of the company and its principals. She makes assertions
6 regarding DST's business model, policies and turnover rate. And she assails DST's culture, values
7 and business style. Her statements are false.

8 11. The review's statements regarding communication, performance appraisals, feedback
9 to employees and recognition for their work are demonstrably false. As President of the company, I
10 know that DST routinely provides performance appraisals to all of its employees. I personally
11 provided written feedback to Ms. Mikulec on her assignments. Moreover, the statement that DST
12 provides only negative feedback to its employees is not true. Over the course of my 16 years as
13 President, I have routinely provided positive feedback to employees. I have also routinely observed
14 positive feedback provided by other managers.

15 12. Moreover, DST provides positive feedback and recognition to well-performing
16 employees through salary increases, bonuses, and other benefits. During the years 2012-2013, when
17 Ms. Mikulec was an employee at DST, DST increased salaries and/or paid bonuses 22 times.
18 Furthermore, during the same years, DST organized 13 activities with all of its employees, fully paid
19 by DST, to thank them for their hard work.

20 13. The review's statement that DST has very high turnover is also false. During Ms.
21 Mikulec's employment at DST, there were 30 employees, seven of which had been with DST for
22 over ten years. Furthermore, only one employee left during that period. This was a new employee
23 who worked for only two days and quit after being hired by another company that she had been
24 pursuing.

25 14. The review's statement that DST has no policies or structure is also false. DST has
26 an extensive set of policies. These policies cover such matters as employee conduct, expenses,
27 business continuity, the environment, etc. Ms. Mikulec signed three of such policies upon being
28 hired.

15. Moreover, DST maintains a robust structure designed to maximize efficiency. During Ms. Mikulec's employment, DST had 30 employees, who were in five divisions. The divisions were: i) software development; ii) IT; iii) support and business analysis; (iv) human resources; and v) administration. These divisions were overseen by DST's Chief Executive Officer, Chief Technology Officer, Client Services Director and other managers.

16. The review's statements that DST rules by intimidation, that the work is very stressful, and that the company has no culture and no values are also false. As explained above, DST makes it a point to provide positive feedback to employees and to thank them for their hard work. DST is also very flexible regarding absences, work schedules, as well as deadlines. Moreover, DST has made loans totaling CAN 55 000\$ to employees facing personal difficulties. .

17. The review's statement that DST is "saturated with family members" is also false. On a total of 30 employees, one wife and one son worked for DST and neither held a managerial position.

18. I believe that the false statements have caused DST injury. At the time the review was published, DST was in the final stages of several RFPs, which were all lost. One of the RFPs was the one in which Ms. Mikulec had been involved during her employment at DST. Tellingly, one of these prospective clients stated that it selected another service provider because of a better “cultural synergy”.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on August 25, 2016 at Montreal, Quebec.

Perry Linn

RADOMIR NIKOLAJEV

Exhibit A

PIÈCE/EXHIBIT
P-2

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Digital Shape Technologies Employee Review

Mar 07, 2013

"Toxic environment and extreme paranoia"

Anonymous Employee (Former Employee)

I worked at Digital Shape Technologies full-time for less than a year

Pros – Beautiful offices and great salary. Downtown location.

Cons – Extreme paranoia, very stressful, no policies or structure. Upper management rules by intimidation. Very high turnover. No communication. They won't do performance appraisals because that would mean putting something in writing - back to the paranoia. Horrible place to work. Privately owned - saturated with family members. Forget about positive feedback - you only hear negative, sometimes delivered loudly and angrily. No culture, no values.

Advice to Senior Management – Treat treat staff better. Those talented people work hard and care about their contributions. Instead you treat them like trained monkeys. Staff deserve recognition, the chance for advancement and added responsibilities. Get a grip on the paranoia.

No, I would not recommend this company to a friend – I'm not optimistic about the outlook for this company

Was this review helpful? Yes | No

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Digital Shape Technologies Communications Interview

Posted Mar 07, 2013

Accepted Offer - Interviewed in Montreal, QC - Reviewed Mar 07, 2013

Interview Details: It was too rushed (I should have suspected something) The HR guy called me 5 minutes after my interview to offer me the position. He also reverted to French during the interview while we were speaking English. This shocked me. He was very intense but I guess that's because he had a job to fill. He contacted me via LinkedIn.

Interview Question - None. They HR guy didn't know what he was doing. He asked me a few basic questions. I asked him a few. He was a bit evasive. I showed him my examples of writing and explained my experience. Answer Question

Negotiation Details: nothing much. They wanted me so bad, they gave me top \$\$. Again this should have warned me.

Other Details - The process took 3 days.

Overall Negative Experience Very Easy Interview

Helpful Interview? Yes | No

Problem with this Interview?

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